

## XII. DENIAL OF ACCESS TO RECORDS

While it is the Department's policy to grant access to public records, there are circumstances under which access will be denied. If a record contains both exempt and non-exempt information, the Department will disclose the non-exempt information after the exempt information has been deleted. The Department will only withhold the entire record when the non-exempt information is not reasonably segregable from the exempt information. (Government Code §6257.)

Records which are exempt from disclosure are defined in the applicable statutes and regulations. See Appendix A and B for a discussion of some of these exemptions. Where there is a question as to whether a particular record is exempt, the Office of Legal Counsel (OLC) should be consulted.

If any records requested are withheld, the Department's written response to the records request must identify the fact that records have been withheld, the reasons for the denial of the records request, and the name and title of each person responsible for the denial. (Health and Safety Code §25152.5(h).) Program staff will cite the particular statutory or regulatory exemption which applies as the reason for withholding the records. A written response must be provided to the requestor within 5 working days of the denial. (Health and Safety Code §25152.5(h).)

When any record or part of a record is denied, the response to the requestor must also identify the record being withheld either by individual record or by category of record. For example, a request for records may include records which are exempt because they are trade secrets. A response denying the request must either specifically identify the individual record being withheld by date, sender, receiver and type of document or must identify the records being withheld by general category, such as correspondence, memos, diagrams, etc. However, no identification of the records should be made if the mere fact of identifying the existence or nonexistence of the records would reveal confidential information. Any response denying a records request must also state that the requestor may file suit for injunctive or declarative relief or writ of mandate under Government Code §6258 to enforce a right to inspect the public records. (See Attachment 5 for a sample denial letter.) The OLC must be consulted where records are denied and with regard to the description of the records being withheld by the Department.